

REMARKS

In the Office Action mailed April 7, 2004, Claims 2, 3, 5, 7-9, 12 and 13 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 4,937,285 issued to Wittmann et al. in view of U.S. Pat. No. 5,274,017 issued to Pan or U.S. Pat. No. 4,937,285 issued to Wittmann et al. in view of U.S. Pat. No. 5,274,017 issued to Pan taken further with evidence provided by U.S. Pat. No. 5,908,663 issued to Wang et al. The Examiner made those rejections FINAL.

Rejections under 35 U.S.C. §103(a)

Claims 2, 3, 5, 7-9, 12 and 13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 4,937,285 issued to Wittmann et al. in view of U.S. Pat. No. 5,274,017 issued to Pan or U.S. Pat. No. 4,937,285 issued to Wittmann et al. in view of U.S. Pat. No. 5,274,017 issued to Pan taken further with evidence provided by U.S. Pat. No. 5,908,663 issued to Wang et al. Applicants respectfully disagree with the Examiner's contention regarding the cited art.

Applicants respectfully remind the Examiner of the Federal Circuit's admonition given in *In re Rouffet*, 149 F.3d 1350, 1357, 47 U.S.P.Q.2d 1453, 1458-9 (Fed. Cir. 1998) that,

To prevent the use of hindsight based on the invention to defeat patentability of the invention, this court requires the examiner to show a motivation to combine the references that create the case of obviousness. In other words, the examiner must show reasons that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed.

Applicants respectfully contend that the Examiner has failed to do so in the instant Office Action. The only teaching provided by Wittmann et al. at col. 11, line 40, coming at the end of a long "laundry list" of ingredients, is that flame retardants may be included in their compositions. Wittmann et al. provide no teaching, nor direction nor guidance as to how to select any flame retardant. Pan fails to provide the missing teaching to remedy the deficiencies of Wittmann et al. Pan, at col. 2, lines 21-25, teaches flame retardants which are oxides of aluminum, magnesium,

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lithium, lanthanum, bismuth or yttrium with high surface area aluminum oxide supported on silica of colloidal particle size being the most preferred. The Examiner has failed to point to where Pan contains any teaching or suggestion to utilize the instantly claimed water-containing oxides such as aluminum oxide hydroxide. Further, the Examiner has failed to point to where Pan teaches or suggests aluminum phosphates, aluminum sulfates, aluminum sulfides, aluminum hydroxides, aluminum borates and aluminum borophosphates as is instantly claimed.

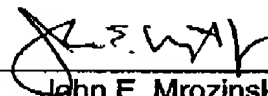
Therefore, applicants contend that nothing in the combined teaching of the cited art would lead one of ordinary skill in the art to the instantly claimed invention and respectfully request the Examiner reconsider and reverse her rejection of Claims 2, 3, 5, 7-9, 12 and 13 under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 4,937,285 issued to Wittmann et al. in view of U.S. Pat. No. 5,274,017 issued to Pan or U.S. Pat. No. 4,937,285 issued to Wittmann et al. in view of U.S. Pat. No. 5,274,017 issued to Pan taken further with evidence provided by U.S. Pat. No. 5,908,663 issued to Wang et al.

Conclusion

Applicants have made no claim amendments as they contend the pending claims are patentable over the cited art. Accordingly, reconsideration and a Notice of Allowance are respectfully requested for Claims 2, 3, 5, 7-9, 12 and 13. If the Examiner is of the opinion that the instant application is in condition for other than allowance, she is invited to contact the applicants' Attorney at the telephone number listed below, so that additional changes to the claims may be discussed.

Respectfully submitted,

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